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Attorneys for Defendant PINNACLE CREDIT SERVICES, LLC, erroneously sued and served as PINNACLE CREDIT SERVICES, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBERT MICHAEL WILLIAMS,

Plaintiff,

vs.

TRANSUNION, LLC, EXPERIAN
INFORMATION SOLUTIONS, INC.;
EQUIFAX INFORMATION SERVICES,
LLC, AMERICAN EXPRESS TRAVEL
RELATED SERVICES, INC.; DISCOVER
FINANCIAL SERVICES; PINNACLE
CREDIT SERVICES, INC.; ASSET
ACCEPTANCE, LLC; and NATIONAL
CREDIT ADJUSTERS, LLC.

Defendants.

Case No. C-07-5956 CRB

**DECLARATION OF TIMOTHY P. JOHNSON
IN SUPPORT OF MOTION TO COMPEL
FURTHER DISCOVERY RESPONSES**

Date: October 24, 2008

Time: 10:00 a.m.

Courtroom: 8, 19th Floor

I, TIMOTHY P. JOHNSON, declare as follows:

1. I am an attorney at law, licensed to practice before all of the courts of the State of California and admitted to practice before the United States District Court, Northern District of California. I am the attorney of record for Defendant PINNACLE CREDIT SERVICES, LLC (hereinafter "PINNACLE") in the above-captioned action.

2. I make this declaration in support of PINNACLE's motion to compel further discovery responses. The facts set forth herein are true to my own personal knowledge, and if called upon to and sworn as a witness, I could and would competently testify thereto.

1 3. I served discovery consisting of written interrogatories and a request for
2 production of documents on June 6, 2008. A copy of that discovery is attached to this declaration as
3 Exhibit A.

4 4. Plaintiff served his responses to that discovery on June 21, 2008. A copy of the
5 responses is attached to this declaration as Exhibit B.

6 5. As of June 25, 2008, plaintiff was not represented by counsel, accordingly, I
7 wrote to him personally regarding the adequacy of the discovery responses. A copy of my letter to
8 plaintiff dated June 25, 2008 regarding the discovery responses is attached as Exhibit C to this
9 declaration.

10 6. Plaintiff responded to my letter of June 26, 2008. A copy of his letter is attached
11 as Exhibit D to this declaration. Plaintiff stated that my discovery issues were “baseless” and
12 advised me to contact his new attorney, James Z. Margolis.

13 7. I then wrote to Mr. Margolis on June 30, 2008, regarding the discovery
14 responses. A copy of my letter to him of that letter is attached as Exhibit E to this declaration. I
15 received no response from Mr. Margolis to this letter.

16 8. I wrote to Mr. Margolis again on July 17, 2008 regarding the discovery
17 responses. A copy of that letter is attached as Exhibit F to this declaration. I again received no
18 response from Mr. Margolis to that letter.

19 9. I wrote to Mr. Margolis against on July 25, 2008, regarding the discovery
20 responses. A copy of that letter is attached as Exhibit G to this declaration. I, again, received no
21 response from Mr. Margolis to that letter.

22 10. On Wednesday, July 30, 2008, I telephoned Mr. Margolis to discuss the
23 discovery responses. He advised me that he did not have time to discuss the issues with me then
24 since he was going into trial, but that he would call me back the next week.

25 11. Not having heard back from Mr. Margolis that following week, I telephoned him
26 again on Monday, August 11, 2008. Mr. Margolis advised me that he had been in depositions that
27 previous week and that he had not had the opportunity to review the discovery issues. He promised
28 to get back to me on Wednesday, August 13, 2008, to discuss the discovery issues.

LAW OFFICES OF TIMOTHY P. JOHNSON

1 12. Not having heard back from Mr. Margolis on Wednesday, I telephoned him on
2 Friday, August 15, 2008. He advised me that he was just leaving for a mediation, but he would call
3 me back on Monday.

4 13. Not having heard back from Mr. Margolis, I telephoned Mr. Margolis at the end
5 of the workday on Monday, August 18, 2008. I left a voice mail for him that I needed him to call
6 me as soon as possible, but at least some time that week, to discuss the discovery responses. I never
7 heard from Mr. Margolis in response to that telephone call.

8 14. I believe that I have done everything possible to attempt to resolve the discovery
9 dispute with plaintiff. It is apparent that Mr. Margolis is either too busy to take the time to address
10 the issues or is simply unwilling to take the time to address the issues.

11 15. Accordingly, I believe that I am left with no alternative but to bring this motion
12 to seek the court's assistance to obtain proper responses to my discovery.

13
14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct.

16 Executed this 8th day of September, 2008 at Tustin, California.

17
18 /S/ Timothy P. Johnson
19 TIMOTHY P. JOHNSON
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PROOF OF SERVICE BY MAIL

C.C.P. §1013(a), C.R.C. 2003(3), 2005(I)

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 17821 E. 17th Street, Suite 290, Tustin, California 92780.

On September 12, 2008, I served the foregoing document described as **DECLARATION OF TIMOTHY P. JOHNSON IN SUPPORT OF MOTION TO COMPEL FURTHER DISCOVERY RESPONSES** on all interested parties in this action by:

☒ placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U. S. Postal Service on the same day with postage thereon fully prepaid at Tustin, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the offices of the addressee.

☐ **BY FACSIMILE TRANSMISSION:** From Fax No. (714) 832-1179 to the facsimile numbers listed on the attached mailing list. The facsimile machine I used complied with Rule 2003(3), and no error was reported by the machine.

☐ **BY OVERNIGHT DELIVERY:** I enclosed said document(s) in an envelope or package provided by the overnight service carrier and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

EXECUTED on September 12, 2008 at Tustin, California.

/S/ Carol w. Wiese
CAROL W. WIESE

Williams v. Trans Union, et al.
USDC, Case No. C-07-5956 CRB

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